

(6) *Public environmental, energy or safety benefits:* The recommendation should provide, if known, the savings over status quo in fuel, emissions, or safety improvements that could be derived from shifting some capacity to the proposed Marine Highway Corridor. It should also consider the implications future growth may have on the proposal and include any affiliations with environmental advocacy groups or community groups that support the Corridor designation.

(7) *Impediments:* Describe known or anticipated obstacles to shifting capacity to the proposed Marine Highway Corridor. Include any strategies, either in place or proposed, to deal with the impediments.

(d) *Action by the Department of Transportation.* All Marine Highway Corridor designation recommendations will be evaluated based upon the preceding criteria. An announcement of waterways designated as Marine Highway Corridors will appear in the FEDERAL REGISTER. In certain cases the Secretary of Transportation may designate a Marine Highway Corridor without receipt of a recommendation. The Department of Transportation will coordinate with Corridor sponsors to identify the most appropriate actions to support the Corridors. Support could include any of the following, as appropriate and within agency resources:

(1) Promote the Corridor with appropriate governmental, State and local transportation planners, private sector entities or other decision-makers.

(2) Coordinate with ports, State Departments of Transportation, Metropolitan Planning Organizations, localities, other public agencies and the private sector to support the designated corridor. Efforts can be aimed at obtaining access to land or terminals, developing landside facilities and infrastructure, and working with regional, State or local governmental entities to remove barriers to self-supporting operations.

(3) Pursue memorandums of agreement with other federal entities to transport federally owned or generated cargo using waterborne transportation along the Marine Highway Corridor, when practical or available.

(4) Assist with collection and dissemination of data for the designation and delineation of Marine Highway Corridors as available resources permit.

(5) Work with Federal entities and state and local governments to include designated Corridors in transportation planning.

(6) Bring specific impediments to the attention of the Marine Highway Advisory Board.

(7) Conduct research on issues specific to designated Corridors as available resources permit.

(8) Communicate with designated Corridor coalitions to provide ongoing support and identify lessons learned and best practices for the overall Marine Highway program.

(9) Collect data and disseminate data for the designation and delineation of short sea transportation routes.

§ 393.4 Marine Highway Projects.

(a) *Summary.* The purpose of this section is to designate specific Marine Highway Projects to mitigate landside congestion. The goal is to identify Projects that, if successfully started, expanded, or otherwise enhanced, would provide the greatest benefit to the public. Public benefits to be considered include road and railroad congestion relief (particularly in urban areas and along corridors with national significance), reduced emissions or energy consumption, infrastructure construction and maintenance savings, improved safety, and long-term economic viability. Designation can help focus public and private investment on pre-identified projects that offer the maximum potential public benefit. Designated Marine Highway Projects may receive support from the Department of Transportation as described in this section.

(b) *Objectives.* The primary objectives of the designation of Marine Highway Projects are:

(1) Reduce landside congestion.

(2) Identify proposed services that represent the greatest public benefit as measured in congestion relief, energy savings, reduced emissions and improved safety.

(3) Focus resources on those projects that offer the greatest likelihood of success.

(4) Identify potential savings by providing an alternative to surface transportation infrastructure construction and maintenance.

(5) Develop best practices for the Marine Highway Program.

(6) Provide specific examples with performance measures and quantifiable outcomes for the Marine Highway.

(c) *Designation of Marine Highway Projects.* The Department of Transportation will solicit applications for designation as specific Marine Highway Projects. Applications will be accepted from a Project sponsor. Project sponsors must be public entities, including but not limited to, Metropolitan Planning Organizations, state governments (including State Departments of Transportation) and port authorities. Project sponsors are encouraged to develop coalitions and public/private partnerships with the common objective of developing the specific Marine Highway Project. Potential partners can include vessel owners and operators, third party logistics providers, trucking companies, shippers, port authorities, state, regional and local transportation planners, or any combination of entities working in collaboration under a single application. Candidate Projects can be new starts or existing Marine Highway operations where expansion or improvements present maximum public benefit. Applications must meet the requirements of coastwise shipping laws and all applicable federal, state and local laws.

(d) *Action by the Department of Transportation.* (1) The Department will evaluate and select Projects based on a cost-benefit analysis and technical review of the information provided by the applicant. The Department will publish, and update periodically, the application information required and the factors that will be considered in the evaluation. Each factor will be weighed according to its relative cost or benefit. Applicants may request that other factors be considered in the cost-benefit analyses.

(2) Projects that support a designated Marine Highway Corridor, receive a favorable technical review, and meet

other minimum standards as defined by the Department, may be nominated by the Maritime Administrator for selection by the Secretary.

(3) Upon designation as a Marine Highway Project, the Department of Transportation will coordinate with the Project sponsor to identify the most appropriate Departmental actions to support the project. Support could include any of the following, as appropriate and within agency resources:

(i) Promote the service with appropriate governmental, regional State or local transportation planners, private sector entities or other decision makers.

(ii) Coordinate with ports, State Departments of Transportation, Metropolitan Planning Organizations, localities, other public agencies and the private sector to support the designated service. Efforts can be aimed at identifying resources, obtaining access to land or terminals, developing landside facilities and infrastructure, and working with regional, State or local governmental entities to remove barriers to success.

(iii) Pursue memorandums of agreement with other federal entities to transport federally owned or generated cargo using the services of the designated project, when practical or available.

(iv) In cases where transportation infrastructure is needed, Project sponsors may request to be designated on the Secretary of Transportation's list of high-priority transportation infrastructure projects under Executive Order 13274, "Environmental Stewardship and Transportation Infrastructure Project Review." For these projects, Executive Order 13274 provides that Federal agencies shall, to the maximum extent practicable, expedite their reviews for relevant permits or other approvals and take related actions as necessary, consistent with available resources and applicable laws.

(v) Assist with developing individual performance measures as described in this rule.

(vi) Work with Federal entities and State and local governments to include designated Projects in transportation planning.

(vii) Bring specific impediments to the attention of Marine Highway Advisory Board.

(viii) Conduct research on issues specific to designated Projects.

(ix) Maintain liaison with representatives of designated Projects to provide ongoing support and identify lessons learned and best practices for other projects and the overall Marine Highway program.

(e) *Application for Designation as a Marine Highway Project.* Marine Highway Project designation will be based on evaluation of the criteria outlined in this rule. When responding to specific solicitations for Marine Highway projects by the Department of Transportation, the following information will be required:

(1) *Proposed project:* The application should describe the overall operation; which ports and terminals will be served, number and type of vessels, size, quantity and type of cargo and/or passengers, routes, frequency, and other relevant information. Additional project components applicants should address include the following:

(i) Identify which, if known, designated Marine Highway Corridors will be utilized.

(ii) Provide the organizational structure of the proposed project, including business affiliations, environmental non-profit organizations and governmental or private sector stakeholders.

(iii) Documents affirming commitment or support from entities involved in the project.

(iv) State Departments of Transportation, Metropolitan Planning Organizations, municipalities and other governmental entities that have been engaged and extent to which they support the service.

(2) *Shippers:* Identify shippers that have indicated an interest in and level of commitment to the proposed service, or describe the specific commodities, market, and shippers the service will attract, and the extent to which these entities have been engaged. Applications should include the marketing strategy.

(3) *Potential relief to surface transportation congestion:* Describe extent to which the proposed project will relieve landside congestion in measurable

terms, such as reductions in vehicle miles traveled. Include the landside corridors that stand to benefit from the operation, and any known infrastructure savings (either construction or maintenance) that would result from the project.

(4) *Environmental, energy or safety benefits:* The application should address the savings over the current practice in fuel, emissions, or safety improvements that would result from the proposed operation. Include any affiliations with environmental groups or additional benefits the service would offer.

(5) *Finance Plan and Private Sector Participation:* Provide projected revenues and expenses. Include labor and operating costs, fixed and recurring infrastructure costs. Include commitments from terminals, shippers, operators and other entities. A cost benefit analysis should be provided, if available. Note that prior to final designation as a project, a cost benefit analysis will be required, if not provided in the original application.

(6) *Impediments:* Describe any known or anticipated obstacles to either start-up or long-term success of the project. Include any strategies, either in place or proposed, to mitigate impediments.

(7) *Proposed Project Timeline:* The Application should include a proposed project time-line with estimated start dates and key milestones. Include the point in the timeline at which the enterprise is anticipated to attain self-sufficiency (if applicable).

(8) *Cost and Benefits:* Applicants will describe, to the extent known, the benefits to be derived from the designation of the project in monetary terms, including the items described in number 1 through 7 above, such as the environmental improvements, reduction in fuel usage, reduction in landside congestion, increase in employment, increase in taxes paid or other revenues derived therefrom, safety improvements including potential saving of human life and property from fewer traffic accidents, decrease in time required for delivery of cargo or passengers and the costs associated with construction of new infrastructure if any, the costs of additional operations

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or maintenance of the project, including any public funds needed for support of the project. Upon receipt by the Maritime Administrator, the application will be evaluated using weight-based criteria during a technical review. The review will assess factors such as project scope, impact, public benefit, offsetting costs, cost to the Government (if any), the likelihood of long-term self-supporting operations, and its relationship with Marine Highway Corridors, once designated (See 46 CFR 393.3 Marine Highway Corridors). Additional factors may be considered during the evaluation process. *All factors will be quantified and weighted by their relative costs and benefits.* Project sponsors will be notified in writing by the Maritime Administration if they receive designation.

(9) *Evaluation Criteria:* To view the criteria which will be used in the initial assessment of Project applications, please see the Appendix to part 393.

(10) *Performance Measures:* Once designated projects enter the operational phase (either start of a new service, or expansion of existing service), they will be evaluated regularly to determine if the project's objectives are being achieved. Overall project performance will be in one of three categories—exceeds, meets, or does not meet original projected unit cost. Unit cost at time of project designation will be compared to the unit cost during the performance evaluation. Unit cost will be calculated by dividing Public benefit by Public cost, then multiplying it by the Timeliness factor, each of which are described below:

(i) *Public benefit:* Does the project meet the stated goals in shifting specific numbers of vehicles (number of trucks, rail cars or automobiles) off the designated landside routes (measured in miles, weighted for either urban or rural)? Other public benefits, including congestion reduction, energy savings, reduced emissions, and safety improvements will be assumed to be a direct derivative of either numbers of vehicles shifted, or vehicle/ton miles avoided, unless specific factors change (such as a change in vessel fuel or emissions).

(ii) *Public cost:* Is the overall cost to the Federal government (if any) on track with estimates at the time of

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designation? The overall cost to the Federal government represents the amount of Federal investment (either direct funding, loan guarantees or similar mechanisms) reduced by the offsetting savings the project represents (road/bridge wear and tear avoided, infrastructure construction or expansion deferred).

(iii) *Timeliness factor:* Is the project on track for the point at which the enterprise is projected to attain self-sufficiency? For example, if the project was anticipated to attain self-sufficiency after 36 months of operation, is it on track at the point of evaluation to meet that objective? This can be determined by assessing revenues, freight trends, expenses and other factors established in the application review process.

§ 393.5 Incentives, Impediments and Solutions.

(a) *Summary.* The purpose of this section is to identify short term incentives and solutions to impediments in order to encourage use of the Marine Highway for freight and passengers.

(b) *Objectives.* This section is aimed at increasing the use of the Marine Highways through the following primary objectives:

(1) Encourage the integration of Marine Highways in transportation plans at the State, regional and local levels.

(2) Develop short term incentives aimed at expanding existing or starting new Marine Highway operations.

(3) Identify and seek solutions to impediments to the Marine Highway.

(c) *Federal, State, Local, and Regional Transportation Planning.* The Department of Transportation will coordinate with Federal, state and local governments and metropolitan planning organizations to develop strategies to encourage the use of America's Marine Highway for transportation of passengers and cargo. Activities will include the following:

(1) Work with State Departments of Transportation to assess plans and develop strategies, where appropriate, to incorporate Marine Highway transportation, including ferries, and other marine transportation solutions for regional and interstate transport of